

1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF NEW YORK: TRIAL TERM PART 14  
3 - - - - - X  
4 ROTH AND ROTH, LLP,  
5  
6 Petitioner,  
7  
8 - against - INDEX NO.  
9 158366/22  
10 LONG ISLAND RAILROAD AND METROPOLITAN  
11 TRANSPORTATION AUTHORITY,  
12  
13 Respondents.  
14 - - - - - X  
15 60 Centre Street  
16 New York, New York  
17 September 25, 2024  
18 DECISION  
19  
20 BEFORE:  
21 HONORABLE ARLENE P. BLUTH,  
22 Justice  
23  
24 APPEARANCES:  
25  
26 SONIN & GENIS LLC  
27 Attorneys for the Petitioner  
28 1 Fordham Plaza, Suite 907  
29 Bronx, New York 10458  
30 BY: ROBERT J. GENIS, ESQ.  
31  
32 ROTH & ROTH LLP  
33 192 Lexington Avenue, Suite 802  
34 New York, New York 10016  
35 BY: DAVID A. ROTH, ESQ.  
36  
37 LANDMAN CORSI BALLAINE & FORD P.C.  
38 Attorneys for the Respondents  
39 120 Broadway, 13th Floor  
40 New York, New York 10271  
41 BY: RANI SHULMAN, ESQ.  
42 SHAYNA A. BRYTON, ESQ.  
43  
44  
45 Bonnie Piccirillo  
46 Official Court Reporter

## Decision

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THE COURT: This was an attorney's fee hearing.

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Petitioner is entitled to reasonable fees. The

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question here was how much is reasonable. The Court's

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inquiry is not just whether the hours were reasonable and

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whether the hourly rate was reasonable, but because there

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was argument about those points, the Court -- but because

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there was argument about those points even though in the end

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the respondent agreed to the hourly rates, I -- even if the

16:34:19

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respondents didn't agree to the hourly rates, I determine

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that the rates for Mr. Roth at a thousand dollars an hour is

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reasonable for an attorney with his experience and expertise

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in New York City; and \$550 an hour for Mr. Reimel who has

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been an attorney since 2006 is reasonable, and it might even

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be low by New York standards for Mr. Reimel; and \$675 an

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hour for Mr. Shields who has been admitted since 2013, more

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than a decade, is also within reason.

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Now, certainly billing \$6,887.50 for the petition

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is extraordinarily reasonable. This Court has conducted

16:35:08

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several attorney's fee hearings for FOIL cases, and this

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Court can only imagine the reason the petition was so cheap

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is because of petitioner's great experience with FOIL and

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that he had them in the computer already and he just had to

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adapt them.

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Mr. Roth testified that he brought more -- that

## Decision

1 he's brought more than twenty-five, thirty petitions. Even  
2 if petitioner mocked up an old petition, it still takes time  
3 to personalize it anyway you look at it. Less than \$7,000  
4 to bring a case in Supreme Court is cheap.

5 Petitioner then received an answer, a 23-page  
6 memorandum of law and an affidavit from Ms. Woodhouse. Less  
7 than \$3,000 to review all that stuff is completely  
8 reasonable to read and read over the opposition and think  
9 about it.

16:36:11 10 The reply on the petition was charged at \$6,971.  
11 Again, less than \$7,000. This is also very reasonable. I  
12 would even say it's cheap. I've done many, many attorney's  
13 fees hearings and lawyers sneeze for more than that.

14 And point six, so to review the decision -- to  
15 review my decision when they lost, which was no doubt very  
16 disappointing, that's fair and reasonable. This Court  
17 writes -- I write my decisions for the loser and so the  
18 loser can read it, study it and, hopefully, understand why I  
19 did what I did. So, this loser -- I'm not really calling  
16:37:05 20 you a loser -- but, you know, the loser in this case could  
21 read and understand.

22 Now, once petitioner found out that the Court's  
23 decision was based on misinformation, on information  
24 Ms. Woodhouse -- Ms. Woodhouse wrote an affidavit which was  
25 false. Whether she meant it or not to be false I'm not

## Decision

1 going there, but it was false. It was sworn to by  
2 respondent. That the information on the reports were in  
3 fact available and on the computer and searchable. A  
4 careful motion to renew was made.

5 So, that's no longer in the computer banks of the  
6 Roth & Roth firm. That's something that has to be carefully  
7 crafted. So, charging \$12,435 to bring that motion to renew  
8 with substantial supporting documentation in order to  
9 convince the judge that they lost in front of before. So in  
10 order to convince the judge that she should reconsider her  
11 prior decision based on new evidence, that's completely  
12 reasonable.

13 This is not, like I said, a markup of a petition.  
14 This is dealing with a false affidavit that was relied upon  
15 by the Court which led to an erroneous decision.

16 Now, I could imagine that once that motion to renew  
17 was made, perhaps the Roth & Roth firm -- maybe they know  
18 the opposition too much. But, if I were a lawyer making  
19 that motion, I would hope that the other side would just  
20 say, Oh, gee, I'm sorry. Okay, let's settle this. But, you  
21 didn't.

22 Instead, you put in opposition to that faced with  
23 the fact that their people put in false affidavits. They  
24 still opposed.

25 So, Roth & Roth charging \$5,630 to review the

## Decision

1 opposition to the motion to renew is not only reasonable,  
2 it's really low. I mean, to say I caught you red handed and  
3 then to have an opposition like that, 5,600 is not a lot of  
4 money.

5 The big bill here was the \$24,600 on the reply to  
6 the motion to renew. That's the big ticket.

7 Mr. Roth did it himself at his rate, which is  
8 higher than his associates. It's completely reasonable for  
9 Mr. Roth to do the reply himself. He was most familiar with  
10 the case and he had a smoking gun.

16:39:51

11 Kristin Woodhouse submitted a false affidavit which  
12 prevented him from getting the documents to which he was  
13 entitled. He was certainly entitled to take the bull by the  
14 horns and draft the final words to the Court himself. He  
15 wanted everyone to know that in his view the LIRR would lie  
16 and cheat in order to avoid its legal obligations and throw  
17 unwarranted obstacles in his way. That's his view. He had  
18 every right to decide to do the papers himself and not have  
19 an associate do it. And, of course, this \$24,600 was a  
20 bigger ticket, larger because it was so personalized. This  
21 reply was not a markup of a prior submission.

16:40:35

22 The petition only took less than \$7,000 because he  
23 didn't reinvent the wheel. Here, for the motion to renew  
24 and the reply on that motion, it was not as Mr. Shulman  
25 called "recycled." It was not recycled information. It was

## Decision

1 drafted and crafted personally by the person most  
2 knowledgeable. He had a right to staff the case the way he  
3 wants; and when the case needed real personalization, when  
4 there was a smoking gun and false affidavits, he decided to  
5 do the heavy lifting himself. That is certainly fair and  
6 reasonable.

7 So, he has requested \$61,000 in fees. There was no  
8 request for money for today. And so they requested a  
9 sanction. I'm not going to put any sanctions on. Nothing  
10 prevents anybody from reporting someone to the disciplinary  
11 committee, but I am -- I didn't have a sanctions hearing  
12 about that affidavit from Kristin Woodhouse. I don't know  
13 if she -- the circumstances of that, whether it was willful  
14 or just some lawyer wrote something and she didn't even read  
15 it and she signed it. I have no idea.

16 I'm not going to find sanctions, and there's no  
17 authority to charge twice or give it a factor.

18 So, it is hereby ordered that the attorney's fees  
19 of \$61,000 by petitioner is granted.

16:42:35 20 The clerk is ordered to upon presentation of proper  
21 papers therefor to issue a judgment in favor of the  
22 petitioner, Roth & Roth, and, against the respondents, Long  
23 Island Railroad and Metropolitan Transportation Authority,  
24 in the amount of \$61,000 plus interest from entry of the  
25 judgment, plus costs and disbursements.

Bonnie Piccirillo - Official Court Reporter

Decision

1 That concludes this hearing.

2 MR. GENIS: Thank you, Judge.

3 MR. SHULMAN: Thank you, your Honor.

4 THE COURT: Here are your notes I took away from  
5 you.

6 (Handed back to witness)

7 THE COURT: Do you have the reporter's information?

8 MR. GENIS: I already have her card.

9 THE COURT: If you need me to so order the  
10 transcript, I can do that.

16:43:59

11 MR. GENIS: Thank you, Judge. Appreciate the time  
12 you gave us as well.

13 (Certification on next page)

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C E R T I F I C A T I O N

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THIS IS HEREBY CERTIFIED TO BE A  
TRUE AND CORRECT TRANSCRIPT.

*Bonnie Piccirillo*

BONNIE PICCIRILLO  
OFFICIAL COURT REPORTER